

REMARKS

I. STATUS OF CLAIMS

Claims 1-40 are pending. Without prejudice, independent claims 1 and 24 have been amended to more precisely claim applicants' invention. More specifically, claim 1 has been amended to indicate that the void volume comprises interconnected male side voids which provide space for unabsorbed fluid to flow over the absorbent core material without contacting the topsheet. Support for this amendment can be found throughout the specification, including page 2, ll. 26-29. Claims 5 and 24 have been amended to make clear that the female side voids of the first film and the interconnected male side voids of the second film cooperate to form an enlarged void volume space for containing unabsorbed fluid and channeling it to unsaturated regions of the adjacent absorbent core material. Support for this amendment can be found on page 17, lines 5-10. Claims 4, 5 and 24 have also been amended to remove the limitation that the second layer is affixed to the first. Although this is a preferred embodiment, it is not a critical limitation of the invention. Claims 4, 13, 14, 17-19, 21-23, and 26-36 were amended to make them consistent with the other claims and the specification, and/or to make clear that the void volume is per square meter. Claim 23 was amended to replace μm^3 with cm^3 to correct a typographical error from the prior amendment. New claim 41 has been added to specify a preferred embodiment of the article of claim 24. Support for this amendment can be found on page 16, lines 5-10. No new matter has been added.

II. STATUS OF SPECIFICATION

The specification has been amended to clarify the brief description of Figures 1, 2, and 3. The brief description of Figure 1 has been amended to clarify that Figure 1 represents a typical absorbent article not just an article of the invention. As explained in the specification, Figure 1 is "a simplified representation of a typical absorbent article" (page 10, lines 13-14) and, as such, is meant to encompass both the invention and the prior art. As Figure 2 is a cross sectional schematic view of Figure 1, the brief description of Figure 2 has been amended to be consistent with Figure 1. Support for this amendment can be found on page 10, lines 16-19. Likewise, the brief description of Figure 3 has been amended to be consistent with Figure 2. The

specification on page 20, line 12 has also been amended to correct a referencing error. Support for this amendment can be found in Figure 9 and on page 20, lines 11-12. No new matter has been added.

IV. ENABLEMENT REJECTION

The Examiner rejected claim 23 under 35 USC § 112, first paragraph, as failing to comply with the written description requirement. In particular, the Examiner states that a male side void volume of $750 \mu\text{m}^3$ is not supported in any manner in the disclosure and represents new matter. Applicants have amended claim 23 to change μm^3 to cm^3 . Support for this amendment can be found on page 21, line 6. Accordingly, this rejection is now moot.

V. PRIOR ART REJECTIONS

The Examiner has rejected claims 1, 6, 7, 11, 12 and 16 and 20 under 35 USC § 102(b) as anticipated by Ahr (U.S. Patent No. 4,323,069). With regard to independent claim 1, the Examiner states that Ahr teaches a catamenial pad having a topsheet, an absorbent core and an intermediate layer, wherein the intermediate layer is comprised of a nonwoven film defining a void space between the intermediate layer and the absorbent core.

The Examiner has also rejected claims 5, 24, 25, 29, and 33 under 35 USC § 103(a) as being obvious over Ahr in view of Biagioli (U.S. Patent No. 5,635,275). Although the Examiner admits that Ahr “does not teach a second three-dimensional apertured film facing said absorbent core,” the Examiner states that Biagioli teaches first and second three dimensional apertured films A and B laminated together. The Examiner, thus, concludes that it would be obvious to one of ordinary skill in the art to modify the intermediate layer taught by Ahr to be further comprised of a second three-dimensional apertured film as taught by Biagioli.

The Examiner has also rejected claims 37 and 40 under 35 USC § 103(a) as being obvious over Davis (U.S. Patent No. 6,603,052) in view of Ahr, and claim 39 as being obvious over Davis in view of Ahr as applied to claims 37 and 40, and further in view of Biagioli.

In reply, applicants submit that the Examiner has failed to establish a *prima facie* showing of anticipation or obviousness, and that the claimed invention as amended is patentably distinct over the references cited.

A. CLAIMED INVENTION

The claimed invention relates to an absorbent article comprising an absorbent core material and an acquisition distribution layer above the absorbent core material. The acquisition distribution layer comprises a three dimensional apertured film having a female side and male side. The acquisition distribution layer defines interconnected male voids which provide space for unabsorbed fluid to flow over the absorbent core material without seeping out the female side and contacting the topsheet or user. The acquisition distribution layer thus improves the feeling of dryness of the absorbent article by allowing liquid (particularly after repeated insults) to move over saturated regions of the core material to unsaturated regions. This reduces run-off after repeated insults to the absorbent article by more effectively redirecting unabsorbed fluids to areas of unsaturated core material. The claimed invention also relates to methods of avoiding a wetness sensation by redirecting unabsorbed fluids to regions of non-saturated core material.

Independent claim 1 is directed to an absorbent article comprising a topsheet, an absorbent core material, and an acquisition distribution layer between the topsheet and the absorbent core material. The acquisition distribution layer defines a void volume space including interconnected male side voids providing space for unabsorbed fluid to flow over the absorbent core material without contacting said topsheet.

Independent claim 24 is directed to an absorbent article comprising an absorbent core overlaid with two adjacent layers of three-dimensional apertured film. The female side voids of the lower film and the interconnected male side voids of the upper film cooperate to form an enlarged void volume space for containing unabsorbed fluid and channeling it to unsaturated regions of the adjacent absorbent core material.

Independent claim 37 is directed to a method of avoiding a wetness sensation of a topsheet in an absorbent article by redirecting unabsorbed fluids to an area of non-saturated core material via male side void spaces defined by an acquisition distribution layer.

Independent claim 40 is directed to a method of avoiding a wetness sensation of a topsheet in an absorbent article by redirecting unabsorbed fluids to an area of non-saturated core material via a plurality of buckets that allows fluid to spill over from one bucket to an adjacent bucket.

B. PRIOR ART REFERENCES

1. US 4,323,069 (Ahr)

Ahr discloses a catamenial pad having a topsheet, an absorbent core, and an apertured film interposed between a topsheet and an absorbent core. Ahr does not disclose interconnected male side voids adjacent to the absorbent core to provide space for unabsorbed fluid to flow over the absorbent core material without contacting said topsheet. Close examination of Figure 2 of Ahr shows that the absorbent core material is contained in the male side spaces created by that apertured film 40. See attached enlarged version of Figure 2. Figure 5 is an enlarged edge view of the apertured film outside the context of the absorbent article. Ahr describes the function of the intermediate apertured film layer as preventing backflow from the absorbent core to the topsheet. See col. 13, lines 48-53.

2. US 5,635,275 (Biagioli)

Biagioli discloses a method for laminating a first three-dimensional apertured or non-apertured film to a second flat or three dimensional apertured or non-apertured film. Biagioli also discloses an improved composite laminated film comprising a three-dimensional apertured or non-apertured film material laminated to a flat or three-dimensional apertured or non-apertured film material. Biagioli also discloses the use of this composite laminated film as a diaper backsheet. See col. 11, lines 55-56.

3. US 6,603,052 (Davis)

Davis is not available as prior art. A U.S. patent is available as prior art for a rejection against another U.S. patent application as of its effective filing date. 35 USC § 102(e); MPEP § 2136.01. Here, Davis has a filing date of May 25, 2001. The present application was filed on June 20, 2003 as a continuation of U.S. Application No. 09/668,649, filed on September 22, 2000. The present application, thus, has a priority date before the effective date of Davis. Accordingly, Davis cannot be asserted against the present application.

C. ARGUMENT

1. Ahr fails to teach all the elements of claims 1, 6, 7, 11, 12, 16, and 20

Ahr fails to disclose all the elements of the absorbent article recited in independent claim 1 and the claims that depend from it. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. MPEP § 2131. Here, Ahr fails to teach a male side void volume adjacent to the absorbent core, much less interconnected male side voids that provide sufficient space for unabsorbed fluid to flow over the absorbent core material without contacting the topsheet.

The Examiner states that Figure 2 of Ahr shows a void volume space defined by the walls of the capillaries 42. As can be more clearly seen in the attached enlargement of Figure 2, the capillaries of layer 40 only define a female void volume. The male side of layer 40 is filled with absorbent core material. Consistent with its figures, Ahr describes the function of intermediate layer 40 as allowing the rapid transfer of fluids from the topsheet to the absorbent core and preventing back flow to the topsheet. See col. 13, lines 48-53. In fact, Ahr anticipates that in use its absorbent article will have fluid that will flow across the topsheet. In contrast, the claimed invention is directed to an absorbent article that facilitates the flow of fluid underneath the topsheet.

Accordingly, applicants respectfully request that this 35 USC § 102(b) rejection be withdrawn.

2. The combination of Ahr and Biagioli fails to teach all of the elements of claims 5, 24, 25, 29, and 33.

Ahr and Biagioli fail to disclose the features of claims 5 and 24 and the claims that depend from them. To establish a *prima facie* showing of obviousness, the cited reference, or combination of references, must include each and every limitation of the claimed invention. MPEP § 2143. Here, the claimed article comprises a two layer apertured film in which interconnected male side voids of the upper layer cooperate with the female voids of the lower to contain unabsorbed fluid and channel it to unsaturated regions of the absorbent core. This way, the unabsorbed fluid does not seep through the female side of the acquisition layer and contact the topsheet/user.

As mentioned above, Ahr does not disclose an apertured film having interconnected male voids for channeling fluids over the absorbent layer, much less a two layer film for performing this function. With respect to Biagioli, although it discloses a method that might be used for preparing the two layer apertured film, it does not disclose the particular configuration of the absorbent article set forth in the claims. Thus, its combination with Ahr does not remedy the deficiencies of the rejection based on Ahr as the primary reference.

Applicants therefore respectfully request that this 35 USC § 103(a) rejection be withdrawn.

3. Davis is not available as prior art against claims 37, 39, and 40.

As discussed above, since Davis et al. does not have an effective date earlier than the priority date of the present application, Davis is not available as a prior art. 35 USC § 102(e); MPEP § 2136.01. Davis, thus, cannot be combined with Ahr to reject claims 37 and 40, nor with Ahr and Biagioli to reject claim 39.

Accordingly, applicants respectfully request that these 35 USC § 103(a) rejections be withdrawn.

IV. CONCLUSION

In view of the proposed claim amendments and the arguments presented above, the present application is believed to be in condition for allowance and an

early notice thereof is earnestly solicited. The Office is invited to contact the undersigned counsel in order to further the prosecution of this application in any way.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Marc S. Segal', written over a horizontal line.

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